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OSHA Docket Office,
Docket No. OSHA-2013-0020 or RIN 1218-AC82,
Technical Data Center, Room N-2625,
OSHA - U.S. Department of Labor,
200 Constitution Ave. NW.,
Washington, DC 20210

31 Mar 2014

RE: Comments of the American Exploration & Production Council (“AXPC”) and the Independent Petroleum Association of America (“IPAA”) in Response to the Occupational Safety & Health Administration (“OSHA”) Request for Information entitled “Process Safety Management and Prevention of Major Chemical Accidents” (Dec. 9, 2013). Docket No. OSHA-2013-0020 (RIN 1218-AC82)

Dear Docket Clerk:

On 9 December 2013, in response to Executive Order 13650, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) published a request for information (RFI) related to potential revisions to its Process Safety Management (PSM) standard and its Explosives and Blasting Agents standard, potential updates to its Flammable Liquids standard and Spray Finishing standard, and potential changes to PSM enforcement policies. In this RFI, OSHA asks for information and data on specific rulemaking and policy options, and the workplace hazards they address. The following reflect the response of the American Exploration & Production Council (AXPC) and the Independent Petroleum Association of America (IPAA) (collectively referred to as “the Associations”) to the RFI.

The American Exploration & Production Council (AXPC) is a national trade association representing 32 of America's largest and most active independent natural gas and crude oil exploration and production companies. AXPC's members are “independent” in that their operations are limited to the exploration for and production of natural gas and crude oil. Moreover, its members operate autonomously, unlike their fully integrated counterparts, which operate in additional segments of the energy business, such as downstream refining and marketing. AXPC's members are leaders in developing and applying the innovative and advanced technologies necessary to explore for and produce crude oil and natural gas, and that allow our nation to add reasonably priced domestic energy reserves in environmentally responsible ways.

The Independent Petroleum Association of America (IPAA) is a national trade association representing thousands of independent oil and natural gas exploration and production companies as well as the

service and supply industries that support them. Independents drill roughly 95 percent of the nation's oil and natural gas wells, producing 54 percent of America's oil and 85 percent of America's natural gas.

The Associations' member companies fully share OSHA's commitment to workplace safety and support its' efforts to identify revisions to its standards which are *"necessary to meet the goal of preventing major chemical accidents"*. Their facilities, well sites and other US land work locations are subject to the Occupational Safety and Health Act and could be affected by potential revisions/updates to the PSM standard.

The Associations' member companies do **not** believe that (1) revising the PSM standard to eliminate the exemption for flammable liquids in atmospheric storage tanks; (2) revising the PSM standard to eliminate the exemption for oil and gas well drilling and servicing operations; and/or (3) a resumption of enforcement of the PSM standard at oil and gas production facilities are an appropriate method to prevent major chemical accidents.

Flammable liquids in atmospheric storage tanks associated with E&P facilities (such as crude oil tank batteries) do not have the potential for catastrophic release due to their limited volume. These tanks are already regulated under OSHA's flammable liquids and other standards. As such - further regulations are unnecessary. This position is supported by OSHA which stated the exemption for flammable liquids in atmospheric storage tanks *"is reasonable and appropriate"* (refer to OSHA's ["Summary and Explanation of the Final Rule"](#)).

The PSM standard was never intended to be applied to oil and gas well drilling and servicing operations. These operations are and should remain exempt from the PSM standard. The rationale for this exemption being *"OSHA continues to believe that oil and gas well drilling and servicing operations should be covered in a standard designed to address the uniqueness of that industry"* (refer to OSHA's ["Summary and Explanation of the Final Rule"](#)). No changes have been made - or proposed - to the PSM standard to address the unique nature of oil and gas well drilling and servicing operations. Without such changes – the Associations believe application of the PSM standard (which was written for process facilities) is not an effective or efficient way to manage the unique risks associated with oil and gas well drilling and servicing operations. Instead, any additional regulations should be determined through a separate rulemaking effort involving appropriate stakeholders.

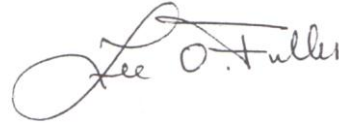
In the RFI OSHA states that *"In a March 7, 2000, letter to API, OSHA conceded that the original economic analysis for the PSM standard did not include oil- and gas-production operations, and stated further that the Agency would suspend enforcement of the PSM standard for oil- and gas-production operations until it performed the analysis. OSHA is considering completing this analysis so that it can resume enforcement of the PSM standard for oil- and gas-production facilities"*. An overwhelming majority of oil and gas production facilities associated with the Associations' member companies would be considered "normally unoccupied remote facilities" (NURF) as defined in the PSM standard. OSHA previously stated that it believes that the present OSHA standards adequately address the chemical hazards presented in these work operations (refer to OSHA's ["Summary and Explanation of the Final Rule"](#)). The results of the proposed economic analysis are dependent on the definition of "normally unoccupied remote facilities". Prior to initiating such an analysis, the Associations request that OSHA work with industry to develop an appropriate definition for NURF (specifically as it applies to oil and gas production facilities) to be used in such an analysis.

In the RFI, OSHA requested detailed responses to a number of specific questions. Attached are the Associations' response to those questions which apply to our member's activities and operations.

Sincerely,



V. Bruce Thompson
President
American Exploration & Production Council



Lee Fuller
Vice President of Government Relations
Independent Petroleum Association of
America

A. General Information

1. **To assist in classifying comments, please provide information on the workplace (or industry) about which you are commenting, including the type of facility, NAICS code (if available), number of employees, types and volumes of chemicals handled, when the facility began operation, and other relevant information.**

AXPC is a national trade association that represents 32 of the largest US independent natural gas and crude oil exploration and production companies.

IPAA is a national trade association that represents thousands of US independent oil and natural gas exploration and production companies as well as the service and supply companies that support them.

NAICS Code - 21111 Oil and Gas Extraction, 213111 Drilling Oil and Gas Wells, and 213112 Support Activities for Oil and Gas Operations.

2. **If you are commenting about a specific workplace or industry, does the workplace or industry conduct operations covered by the PSM standard? Please explain.**

Most operations conducted by the Associations' member companies are not covered by the PSM standard, because these operations primarily fall within one of the well-established and appropriate exemptions defined in § 1910.119(a)(1)(ii)(B) (atmospheric storage of flammable liquids), § 1910.119(a)(2)(ii) (oil or gas well drilling or servicing operations) or § 1910.119(a)(2)(iii) (normally unoccupied remote facilities). However, some of the Associations' member companies conduct specific and limited operations (e.g., natural gas processing and hydrogen sulfide scavenging) that are or may be covered by the PSM standard. Additionally, where beneficial, many member companies have implemented management systems based on sound engineering, operation and maintenance principles, such as safe-work systems like hot-work and confined space and Job Safety Analysis (JSAs), which mirror specific elements from the PSM regulation.

B. Clarifying the PSM Exemption for Atmospheric Storage Tanks

3. **Does your facility have any atmospheric storage tanks that are exempt from PSM coverage under § 1910.119(a)(1)(ii)(B)? If so, what facts led you to conclude that the exemption applies, and do you treat the exempted tanks as if they were PSM-covered for safety or other reasons? Please explain.**

Many of the Associations' member companies operate atmospheric storage tanks that are exempt from PSM coverage. That exemption has been determined by the "Meer Decision". These tanks are not treated as if they were PSM-covered.

Due to their limited volume, flammable liquids in atmospheric storage tanks associated with E&P facilities (such as crude oil tank batteries) do not have the potential for catastrophic release. In addition, these tanks are already regulated under OSHA's flammable liquids standard. Therefore,

applying PSM to atmospheric storage tanks is inappropriate because it will create unnecessary redundancy and it will not achieve OSHA's primary PSM standard objective to "prevent or minimize the consequences of catastrophic releases of toxic, reactive, flammable, or explosive chemicals". Finally, the Associations' positions are supported by OSHA which stated the exemption for flammable liquids in atmospheric storage tanks "is reasonable and appropriate" (refer to OSHA's "Summary and Explanation of the Final Rule").

Also, as stated in response to Question 2, the Associations' member companies have implemented many programs, for example following RAGAGEP, intended to prevent and mitigate the hazards associated with the operation of atmospheric storage tanks.

4. **Please provide any data or information on workplace accidents, near misses, or other safety-related incidents related to flammable liquids stored in atmospheric tanks exempted from PSM coverage under § 1910.119(a)(1)(ii)(B).**

Safety incidents related to flammable liquids stored in atmospheric tanks are infrequent – especially given the scope of the E&P activities throughout the country and substantial number of tanks in operations. While the Associations cannot provide specific member company incident-related data, CSB reports address several of the limited number of incidents related to flammable liquids stored in atmospheric tanks at E&P facilities. The reports include –

Sept 2011 – Public Safety at Oil and Gas Storage Facilities – Multiple Sites – 26 Incidents from 1983 – 2010

March 4 2010 - Seven Key Lessons to Prevent Worker Deaths during Hot Work In and Around Tanks - safety bulletin warning of the hazards of conducting hot work in a variety of industries and identifying seven key lessons aimed at preventing worker deaths during hot work in and around storage tanks containing flammable materials.

June 5 2006 - Partridge Raleigh Oilfield Explosion and Fire - Three contractors died and one contractor suffered serious injuries in an explosion and fire at the Partridge-Raleigh Oilfield. The contractors, all employees of Stringer Oilfield Services, were standing on top of a series of four oil production tanks. They were preparing to weld piping to the tanks when a welding tool likely ignited flammable vapors from the tanks.

The findings of these reports are communicated within the E & P industry through a variety of means including trade associations such as AXPC and IPAA. Many of these incidents could have been prevented had the operator complied with existing OSHA requirements, for example, hot work, confined space and lock-out/tag-out energy isolation procedures.

None of these reports cited the exemption from PSM coverage under § 1910.119(a)(1)(ii)(B) as being a causal factor for the accident.

5. **Would limiting the § 1910.119(a)(1)(ii)(B) exemption to apply only to flammable liquids stored in terminals and tank farms prevent worker injuries and fatalities? What would be the economic impacts of limiting the exemption in this way (e.g., costs and benefits of extending**

PSM coverage to additional types of tanks)? Are there any special circumstances involving small entities that OSHA should consider with respect to this option?

The Associations believe that preserving this exemption for atmospheric storage tanks which do not have the potential for catastrophic release and are already regulated under OSHA's flammable liquids standard (such as crude oil tank batteries at oil and gas facilities) is the correct approach.

The economic impacts of developing and implementing PSM programs for atmospheric storage tanks for potentially tens of thousands of field production facilities would be substantial with no measurable increase in the safety associated with operations conducted at these facilities.

- 6. Should OSHA limit the § 1910.119(a)(1)(ii)(B) exemption to apply only to specific NAICS codes? If so, which NAICS codes should OSHA exempt?**

While the Associations cannot provide an opinion on which NAICS codes to exempt for industries other than the Oil and Gas Exploration and Production Industry, the Associations believe that NAICS Codes 21111 Oil and Gas Extraction, 213111 Drilling Oil and Gas Wells, and 213112 Support Activities for Oil and Gas Operations should be exempted.

- 7. Should the § 1910.119(a)(1)(ii)(B) exemption apply only to “storage tanks,” such that “process tanks” are explicitly covered under PSM? If so, how should OSHA define the terms “storage tanks” and “process tanks”? What would be the economic impacts of limiting the exemption in this way? Are there any special circumstances involving small entities that OSHA should consider with respect to this option?**

The Associations suggest OSHA define the term “storage tank” the same way it is defined in NFPA 30 (refer to NFPA 30 3.3.51.1 “any vessel having a liquid capacity greater than 60 gallons, is intended for fixed installation, and is not used for processing”). Additionally, the Associations recommend that the NFPA 30 definition for atmospheric storage (refer to NFPA 30 3.3.51.2 “designed to operate at pressures from atmospheric through gauge pressure of 1 psi . . . measured at the top of the tank.”) be used for OSHA's PSM definition of atmospheric storage tank.

The confusion between “storage” and “process” tank is created by the PSM definition for “process”, which includes any “storage of a highly hazardous chemical”. OSHA should revise the definition for “process” to specifically exclude “storage within an atmospheric storage tank as defined within NFPA 30”.

- 8. Are there any other options related to the § 1910.119(a)(1)(ii)(B) exemption of flammable liquids stored in atmospheric tanks that OSHA should consider to prevent worker injuries and fatalities? If so, what would be the economic impacts of the option(s), and are there any special circumstances involving small entities that OSHA should consider with respect to the option(s)?**

Flammable liquids stored in atmospheric storage tanks are regulated by OSHA's flammable liquids standard. Rather than create additional, unnecessary and ineffective regulatory compliance burden for companies through expansion of PSM to include flammable liquids stored in atmospheric storage tanks, the Associations' members concur with OSHA efforts to review and – if justified – update the flammable liquids standard. Additionally, more cooperative programs and emphasis on the proper application of OSHA's existing standards for hot work, confined space and energy isolation requirements would likely prove more effective in reducing worker injuries and fatalities in the oil and gas industry.

C. Oil- and Gas-Well Drilling and Servicing

9. **Does your facility conduct oil- and gas-well drilling or servicing operations not covered under § 1910.119? If so, do you treat these activities as covered by the PSM standard for safety or other reasons? Are the activities covered under other federal or state regulations? Please explain.**

The Associations' member companies conduct oil and gas well drilling or servicing operations not covered under the PSM standard. These activities are not treated as being covered by the PSM standard. The PSM standard is intended to minimize catastrophic releases of highly hazardous chemicals primarily at large processing facilities which conduct static, repetitive processes. Since oil and gas well drilling or servicing operations are transient, inherently variable (to address the unique factors associated with each well), and pose only a negligible risk of catastrophic release, they are not operations OSHA intended to regulate under PSM. Instead, there are numerous other federal and/or state regulations, industry codes and standards and recommended practices which more effectively address the hazards posed by oil and gas well drilling or servicing operations.

10. **Please provide any data or information on workplace accidents, near misses, or other safety-related incidents involving oil-and gas-well drilling or servicing operations.**

The Associations' member companies have programs in place to report and investigate workplace accidents, incidents, and other safety related incidents associated with their activities including oil and gas well drilling or servicing operations. These programs assure that where appropriate this information is reported to the required regulatory authority. Additionally, there are a number of government and industry forums which share "lessons learned" from workplace accidents, near misses, or other safety-related incidents. These forums include the bi-annual OSHA Oil and Gas Safety Conference which is strongly supported by industry and the Associations' member companies.

The request for "any data" is overly broad and one which the Associations' member companies cannot effectively respond. The Associations request that OSHA provide additional definition on the data being requested (for example – the type of events and the information needed). Once the additional clarification is provided the Associations will circulate a request to its members to solicit input.

11. **Would removing the § 1910.119(a)(2)(ii) exemption for oil- and gas-well drilling and servicing operations prevent worker injuries and fatalities? What would be the economic impact of removing the exemption? Are there any special circumstances involving small entities that OSHA should consider with respect to this option?**

As previously stated in response to question #9, the PSM requirements are not appropriately tailored to the oil and gas well drilling and servicing operations. Removing the exemption would result in accident prevention efforts and resources (which are effectively preventing worker injuries) being diverted to attempting to comply with a regulation which was never intended to apply to oil and gas well drilling and servicing operations.

The economic impact of such a change, although difficult to quantify precisely, would be substantial since the standard was not intended for oil- and gas-well drilling and servicing operations.

D. Oil- and Gas-Production Facilities

12. **Does your facility conduct oil- and gas-production operations for which OSHA is not currently enforcing PSM requirements? If so, do you follow PSM requirements for these operations for safety or other reasons? Are the activities covered under other federal or state regulations? Please explain.**

Most operations conducted by the Associations' member companies are not covered by the PSM standard, because these operations primarily fall within one of the well-established and appropriate exemptions defined in § 1910.119(a)(1)(ii)(B) (atmospheric storage of flammable liquids), § 1910.119(a)(2)(ii) (oil or gas well drilling or servicing operations) or § 1910.119(a)(2)(iii) (normally unoccupied remote facilities). However, some of the Associations' member companies conduct specific and limited operations (e.g., natural gas processing and hydrogen sulfide scavenging) that may be covered by the PSM standard. Additionally, where beneficial, many member companies have implemented management systems based on sound engineering, operation and maintenance principles, such as safe-work systems like hot-work and confined space and Job Safety Analysis (JSAs), which mirror specific elements from the PSM regulation. The typical daily activities at these low risk facilities involve mainly checking gauges, liquid levels and meter readings which are very simple tasks.

There are numerous federal and/or state regulations which, as OSHA has recognized previously, adequately address oil and gas production operations; therefore, the Associations' member companies believe that enforcement of PSM requirements at oil and gas facilities will dilute effective accident prevention efforts and resources (which are currently preventing worker injuries) by diverting these limited efforts and resources to PSM compliance.

13. **Please provide any data or information on workplace accidents, near misses, or other safety-related incidents involving oil- and gas-production facilities.**

The Associations' member companies have programs in place to report and investigate workplace accidents, incidents, and other safety related incidents involving oil and gas

production facilities. These programs assure that where appropriate this information is reported to the required regulatory authority. Additionally, there are a number of government and industry forums which share “lessons learned” from workplace accidents, near misses, or other safety-related incidents.

The request for “any data” is overly broad and one which the Associations; member companies cannot effectively respond. The Associations request that OSHA provide additional definition on the data being requested (for example – the type of events and the information needed). Once the additional clarification is provided, the Associations will circulate a request to its member companies to solicit input.

14. **What would be the economic impact of resuming enforcement of the PSM standard for oil- and gas-production facilities? Are there any special circumstances involving small entities that OSHA should consider with respect to this option?**

The economic impact of resuming enforcement of the PSM standard for oil- and gas-production facilities would be significant. Each oil and gas production facility (potentially many tens of thousands), containing more than the 10,000 pound flammable liquid and/or gas threshold, and not exempt, would be required to develop, implement and maintain programs for all fourteen elements of the PSM rule. This outcome would be both unnecessarily duplicative given existing regulations which effectively govern oil and gas production facilities and unduly burdensome owing to the low risk posed by these facilities.

E. Expanding PSM Coverage and Requirements for Reactivity Hazards

15. **What are the best criteria to use in classifying reactive hazards? What do you consider to be a reactive chemical? What do you consider to be a reactive mixture?**

The Associations’ member companies are not typically involved in reactive chemistry and are not exposed to reactivity hazards. Oil and gas operations rely on physical separation of water, oil, gas and solids from naturally occurring hydrocarbon streams.

16. ~~Do you consider some reactive hazards to be outside coverage of the existing PSM standard? If so, please describe these hazards.~~

No comment - not applicable to oil and gas production operations

17. ~~Should OSHA add reactive chemicals to the list of PSM-covered chemicals in Appendix A of § 1910.119? If so, which reactive chemicals?~~

No comment - not applicable to oil and gas production operations

18. ~~If your facility is in New Jersey and covered by the New Jersey TCPA, has the TCPA been effective in protecting New Jersey workers from reactive hazards? Please describe any economic impacts associated with TCPA coverage (e.g., costs and benefits, cost savings, shifts in usage of reactive chemicals, special circumstances involving small entities, etc.).~~

No comment - not applicable to oil and gas production operations

- ~~19. Should OSHA revise the PSM standard to use chemical functional groups similar to those in the TCPA⁽²⁴⁾ to define hazardous reactive mixtures? If so, which chemical functional groups should OSHA use?~~

No comment - not applicable to oil and gas production operations

- ~~20. Does your facility follow NFPA 400 for reactive hazards? If so, please describe the economic impacts associated with following NFPA 400 (e.g., cost of additional equipment, cost of additional training, benefits of quality management, special circumstances involving small entities, etc.). Is following NFPA 400 an effective way of protecting workers from reactive hazards? Please explain.~~

No comment - not applicable to oil and gas production operations

- ~~21. Has your facility implemented a reactive hazards management program other than a program specified by the TCPA and NFPA 400? If so, please describe your facility's program, whether it protects worker more or less than the TCPA and NFPA 400, any economic impacts associated with the program, and any special circumstances involving small entities.~~

No comment - not applicable to oil and gas production operations

- ~~22. What specific regulatory approach, if any, should OSHA use to comprehensively address reactive hazards, what would be the economic impacts of this approach, and would there be any special circumstances involving small entities? Are there specific requirements that OSHA should add to the PSM standard to ensure that employers adequately manage reactive hazards?~~

No comment - not applicable to oil and gas production operations

- ~~23. Please provide any data or information on workplace accidents, near misses, or other safety-related incidents involving reactive hazards not covered under the existing PSM standard. Would reactive hazards management requirements in PSM have prevented the incidents?~~

No comment - not applicable to oil and gas production operations

F. Updating the List of Highly Hazardous Chemicals in Appendix A of the PSM Standard

- ~~24. What chemicals, if any, should OSHA add to the list of highly hazardous chemicals in Appendix A of § 1910.119 to prevent worker injuries and fatalities? Please provide any sources, data, or incident examples related to the hazards associated with the chemicals. What would be the economic impacts of adding the chemicals to Appendix A? Are there any special circumstances~~

~~involving small entities that OSHA should consider with respect to adding the chemicals to Appendix A?~~

No comment - not applicable to oil and gas production operations

~~25. How often should OSHA update the list of highly hazardous chemicals in Appendix A of § 1910.119?~~

No comment – not applicable to oil and gas production operations

~~26. Is there a method, other than periodically updating the list of highly hazardous chemicals in Appendix A of § 1910.119 through rulemaking, that OSHA should use to prevent worker injuries and fatalities? Please explain.~~

No comment - not applicable to oil and gas production operations

G. Revising the PSM Standard to Require Additional Management-System Elements

27. Does your facility follow any management-system elements not required under § 1910.119 for PSM-covered operations? If so, please describe the additional management-system elements, the safety benefits, any economic impacts associated with following the elements, and any special circumstances involving small entities.

There are already many effective models which outline the basic components of a safety management system, and many of these models are specifically tailored to oil and gas exploration and production operations. Within the oil and gas exploration & production industry these include regulatory models such as BSEE “Safety & Environmental Management System” as well as models developed by various standards organizations (such as ANSI, ISO and IMO) and industry trade associations such as the American Petroleum Institute and the International Association of Oil & Gas Producers. Additionally, the Center for Chemical Process Safety “Guidelines for Risk Based Process Safety” provides guidance on their management system models. Typically, oil and gas exploration and production companies consider these models when developing internal health and safety management systems to meet their business needs.

Prior to the addition of elements to the PSM regulations – the Associations’ member companies believe efforts should be directed at assuring consistency of the elements between OSHA standards as well as the other regulatory mandated or accepted industry management system models.

28. Would expanding the scope of the PSM standard to require additional management-system elements, or expanding the scope of existing PSM management-system elements, prevent worker injuries and fatalities? If so, please describe the elements, the safety benefits, any economic impacts associated with expanding the scope of the PSM standard in this way, and any special circumstances involving small entities that OSHA should consider.

No – see response to questions 9, 11 and 27.

- 29. In systems using management and metrics, how do facilities develop useful leading indicators? Should the PSM standard require facilities to share these indicators with employees or OSHA?**

The safety management system models developed by various standards organizations (such as ANSI, ISO and IMO) and industry trade associations such as the American Petroleum Institute and the International Association of Oil & Gas Producers (OGP) each address the use of metrics as a means to drive safety performance. For example, Chapter 20 of the Center for Chemical Process Safety “Guidelines for Risk Based Process Safety” includes a chapter entitled “Measurement and Metrics” which describes the process to be used to develop useful leading indicators. And, OGP has actually used historical incident information to develop “Life Saving Rules” which have been adopted by several oil and gas operators. Ultimately, the most effective leading indicators are those which directly influence performance and are reflective of proactive actions undertaken.

In regards to a requirement to “share”, the leading indicators adopted - as well as progress made in the context of these indicators - should be communicated to affected personnel. However, the term “share” should not be expanded to include a requirement that such indicators be submitted to OSHA, because such a requirement could hinder the development of effective leading indicators.

- 30. Would expansion of the PSM standard's employee participation provision to include requirements such as the SEMS stop-work authority, or other efforts to involve employees in all management-system elements, prevent worker injuries and fatalities?**

The Associations’ member companies have programs in place which address stop work authority. As outlined in our responses to Questions 9, 11 and 27, the Associations believe OSHA should direct its efforts towards enhancing or enforcing existing requirements applicable to the E&P oil and gas facilities and operations. Also, OSHA should assure consistency of the management-system elements between the various regulatory mandated or accepted industry safety management system models. Adopting only certain aspects of one management system model into another will not lead to consistency.

- 31. Are there any other management-system elements in the existing PSM standard that OSHA should expand with additional requirements (e.g., a new requirement that employers perform a root-cause analysis for incidents under § 1910.119(m))? If so, please describe the additional requirements, the safety benefits, any economic impacts associated with expanding the PSM elements in this way, and any special circumstances involving small entities that OSHA should consider.**

The Associations recognize the importance of “learning from experience” and as such member companies have programs in place to assure that incidents are adequately investigated, key findings are communicated, and “lessons learned” shared. This sharing is also facilitated

through the national STEPS Network which was developed by OSHA in cooperation with the industry.

As outlined in our responses to Questions 9, 11 and 27, the Associations believe OSHA should direct its efforts towards enhancing or enforcing existing requirements applicable to E&P oil and gas facilities and operations. Also, OSHA should assure consistency of the elements between the various regulatory mandated or accepted industry safety management system models. Adopting only certain aspects of one management system model into another will not lead to consistency.

32. **Please provide any data or information on workplace accidents, near misses, or other safety-related incidents that the employer could have prevented by following management-system elements not required under the existing PSM standard.**

As previously stated there are numerous management system models which contain different elements - The request for information is overly broad and one which the Associations; member companies cannot effectively respond. The Associations request that OSHA provide additional definition on the management system elements of interest. Once the additional clarification is provided, the Associations will circulate a request to its members to solicit input.

H. Amending Paragraph (d) of the PSM Standard to Require Evaluation of Updates to Applicable RAGAGEP

- ~~33. **From what sources (e.g., codes, standards, published technical reports, consensus standards) does your facility select applicable RAGAGEP for operations covered under the PSM standard?**~~

No comment. The Associations collectively represent thousands of companies, some of which have hundreds, if not thousands of facilities - cannot respond to a facility-specific question.

- ~~34. **Does your facility evaluate updates to its selected RAGAGEP? If so, how does your facility monitor any updates, and how often do you evaluate them?**~~

No comment. The Associations collectively represent thousands of companies, some of which have hundreds, if not thousands of facilities - cannot respond to a facility-specific question.

- ~~35. **Please provide any data or information on workplace accidents, near misses, or other safety-related incidents involving failure to evaluate updates to applicable RAGAGEP for PSM covered operations.**~~

No comment. The Associations collectively represent thousands of companies, some of which have hundreds, if not thousands of facilities - cannot respond to a facility-specific question.

- ~~36. **What would be an appropriate time period in which to conduct this evaluation? Would such a requirement be more appropriate in another paragraph of the PSM standard? For example, should such a requirement become part of the Process Hazard Analysis revalidation requirements at 29 CFR 1910.119(e)(5)?**~~

No comment. The Associations collectively represent thousands of companies, some of which have hundreds, if not thousands of facilities - cannot respond to a facility-specific question.

- ~~37. Would requiring employers to evaluate updates to applicable RAGAGEP prevent worker injuries and fatalities? Is there another approach that can be used to ensure the incorporation of RAGAGEP into facility operations that is tangible and documentable? What would be the economic impacts of this requirement? Are there any special circumstances involving small entities that OSHA should consider with respect to this option?~~

No comment. The Associations collectively represent thousands of companies, some of which have hundreds, if not thousands of facilities - cannot respond to a facility-specific question.

I. Clarifying the PSM Standard by Adding a Definition for RAGAGEP

- ~~38. What does your facility use as a definition for RAGAGEP?~~

No comment. The Associations collectively represent thousands of companies, some of which have hundreds, if not thousands of facilities - cannot respond to a facility-specific question.

39. Would adding a definition for RAGAGEP to the PSM standard improve understanding of PSM requirements and prevent worker injuries and fatalities? If so, what specific definition for RAGAGEP should OSHA add to the PSM standard? What would be the economic impacts of adding such a definition? Are there any special circumstances involving small entities that OSHA should consider with respect to this option?

The PSM standard is a complex, performance-based standard; therefore, defining the term “recognized and generally accepted good engineering practices” would be helpful. However, the term needs to be broadly defined to allow the industry to identify and utilize the most appropriate standards and practices.

- ~~40. What criteria does your facility use to develop appropriate internal standards? For instance, if there is an applicable consensus standard, what steps do you take to ensure that your internal standards are at least as protective as the applicable standard?~~

No comment. The Associations collectively represent thousands of companies, some of which have hundreds, if not thousands of facilities - cannot respond to a facility-specific question.

J. Expanding the Scope of Paragraph (j) To Cover the Mechanical Integrity of Any Safety-Critical Equipment

41. Does your facility have any equipment not covered under § 1910.119(j) that is critical to process safety? If so, what type(s) of equipment? Did you identify the equipment as safety-critical through a PSM process hazard analysis? How did your facility determine that the equipment was safety-critical, and does your facility treat the equipment as if it were PSM covered for safety or other reasons? Please explain.

Most of the Associations' member companies have identified safety-critical equipment and have implemented mechanical integrity programs to ensure this equipment is maintained appropriately. This equipment is not treated as if it is PSM covered.

42. **Please provide any data or information on workplace accidents, near misses, or other safety-related incidents related to the mechanical integrity of safety-critical equipment not covered under § 1910.119(j).**

The Associations have no data or information on such accidents but catastrophic failures of production vessels is extremely rare.

43. **Would expanding the scope of § 1910.119(j) to cover the mechanical integrity of all equipment the employer identifies as critical to process safety, in addition to the equipment listed in existing § 1910.119(j), prevent worker injuries and fatalities? What would be the economic impact of expanding the scope of § 1910.119(j) in this way? Are there any special circumstances involving small entities that OSHA should consider with respect to this option?**

Currently § 1910.119(j) provides a well-defined scope of equipment whose mechanical integrity is essential to prevent loss of primary containment.

Expanding this well-defined scope by adding a performance requirement to include all equipment identified as "critical to process safety" without formally defining this term could result in significant economic impacts without a corresponding reduction in risk. It is important to remember that these facilities are almost exclusively remote and unmanned.

K. Clarifying Paragraph (I) of the PSM Standard with an Explicit Requirement That Employers Manage Organizational Changes

44. **What do you consider to be an organizational change within the context of process safety management practices? For example, would you consider the following, or similar, changes to be organizational changes: reducing the number of operators in a shift; changing from 5-day to 7-day operations; changing from 8-hour to 12-hour operator shifts; replacing a unit manager; relocating a technical group to a remote corporate location; or changing a supervisory or compensation structure?**

In the context of the PSM standard, only changes which have a direct and well defined health and safety impact to the covered process should be considered as organizational changes.

45. ~~**If your facility has established and implemented written procedures for management of organizational changes, please describe any economic impacts associated with the procedures.**~~

No comment. The Associations collectively represent thousands of companies, some of which have hundreds, if not thousands of facilities - cannot respond to a facility-specific question.

46. **Would clarifying § 1910.119(I) with an explicit requirement that employers manage organizational changes prevent worker injuries and fatalities? What would be the economic impact of such a clarification? Are there any special circumstances involving small entities that OSHA should consider with respect to this option?**

The PSM standard includes a number of specific considerations for managing changes. All of these considerations are not appropriate for managing organizational changes. The Associations believe it would be inappropriate to expand the current PSM management of change regulations (which were written to require written procedures for managing physical changes) to include the wide scope of management practices listed above.

47. ~~**Please describe any organizational changes made in your facility or organization that have had the potential to affect process operations. Were management-of-change procedures followed before making the changes?**~~

No comment. The Associations collectively represent thousands of companies, some of which have hundreds, if not thousands of facilities - cannot respond to a facility-specific question.

48. **What do you consider to be the best safety practices concerning management of organizational change?**

The Associations believe the best practice is to manage organizational changes through established HR practices which are independent of the PSM management of change process. The Associations are committed to promoting a culture of worker safety throughout the entire industry. Improving workplace safety policies, standards, and practices is an evolving process and to that end many of the Associations' member companies have implemented programs, such as training, mentoring, and on-the-job training and competency assessments, to ensure organizational changes impacting operations are managed.

49. **Please provide any data or information on workplace accidents, near misses, or other safety-related incidents involving the failure to manage organizational change. Would following management-of-change procedures under § 1910.119(I) prevent these incidents?**

The Associations have no data or information on such accidents

L. Revising Paragraph (n) of the PSM Standard to Require Coordination of Emergency Planning With Local Emergency-Response Authorities

50. **Does your facility provide information to, or coordinate emergency planning with, local emergency-response authorities? If so, please explain any special circumstances that necessitated the information sharing or coordination of emergency planning.**

Many of the Associations' member companies annually provide hazardous chemical inventories to State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs), and first responders in accordance with

the Emergency Planning and Community Right-to-Know Act. Many of the Associations' member companies also coordinate emergency planning with local emergency-response authorities. For example, local emergency-response authorities participate in exercises and drills intended to ensure collaboration and enhance communication capabilities.

- 51. If OSHA proposes a regulatory amendment to require coordination, what types of information should OSHA require PSM-covered facilities to provide to local emergency-response authorities? For example, should OSHA require employers to provide safety data sheets for all on-site chemicals, list the quantities of chemicals, list the location of chemicals, provide block-flow diagrams, list fire-mitigation systems present, or report known fire and explosion risks in the facility? What would be the economic impact of requiring employers to provide such information? Are there any special circumstances involving small entities that OSHA should consider with respect to this option? What would be the cost to emergency-response authorities of coordinating emergency planning with PSM-covered employers?**

Executive Order 13560 requires the Chemical Facility Safety and Security Working Group to identify ways to ensure that State homeland security advisors, State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs), State regulators, and first responders have ready access to key information in a useable format, including by thoroughly reviewing categories of chemicals for which information is provided to first responders and the manner in which it is made available, so as to prevent, prepare for, and respond to chemical incidents.

Rather than initiate an independent effort by proposing a regulatory amendment to the PSM standard to require submittal of information to local emergency-response authorities, the Associations believe that OSHA consider information which is currently required to be submitted under other regulations and/or results of the above described efforts of the Chemical Facility Safety and Security Working Group. The Associations also reiterate the responses to questions 9, 11 and 27, which encourage OSHA to direct its efforts towards enhancing or enforcing existing requirements applicable to E&P oil and gas facilities and operations.

- 52. What, if any, steps should OSHA require PSM-covered facilities to take in coordinating emergency planning with local emergency-response authorities? What additional benefits would accrue from requiring training exercises in addition to information sharing? What would be the economic impact of such requirements, and would there be any special circumstances involving small entities or security concerns that OSHA should consider?**

Refer to our response in Question 51 - rather than initiate an independent effort by proposing a regulatory amendment to the PSM standard to require specific emergency response coordination activities with local emergency-response authorities, the Associations suggest that OSHA consider emergency response coordination activities currently required under other regulations and/or results of the above described efforts of the Chemical Facility Safety and Security Working Group.

53. **Please provide any data or information on workplace accidents, near misses, or other safety-related incidents related to local emergency response authorities responding to a PSM-covered facility without adequate information on the chemicals present.**

The Associations have no data or information on such accidents

M. Revising Paragraph (o) of the PSM Standard to Require Third-Party Compliance Audits

- ~~54. **Does your facility use a third party for conducting compliance audits under § 1910.119(o) for safety or other reasons? Please explain.**~~

No comment. The Associations collectively represent thousands of companies, some of which have hundreds, if not thousands of facilities - cannot respond to a facility-specific question.

55. **Please provide any data or information on workplace accidents, near misses, or other safety-related incidents that could have been prevented or minimized by more effective compliance audits conducted for operations covered under § 1910.119(o). Were the ineffective compliance audits conducted by in-house staff or a third party?**

The Associations have no data or information on such accidents

56. **Would revising § 1910.119(o) to require employers to use a third party for compliance audits prevent worker injuries and fatalities? What would be the economic impacts of revising § 1910.119(o) in this way (e.g., typical consultant fees, additional work hours required, special circumstances involving small entities, etc.)?**

No – in many cases – use of company auditors, who have both a technical and firsthand working knowledge of a company's operations, will result in a more effective and meaningful audit than a third party.

57. **Should OSHA revise § 1910.119(o) to require employers to use compliance auditors (internal or third party) with certain minimum credentials or certifications? If so, what minimum credentials or certifications should the Agency require? What burden might this place on small businesses?**

OSHA should not require employers to use compliance auditors with certain minimum credentials or certifications since it is difficult to account for the value of experience in an audit process, particularly internal experience. Please also see response to question 56.

58. **Should OSHA revise § 1910.119(o)(1) to require a compliance audit frequency less than every three years?**

OSHA should not require a compliance audit frequency of less than every three years. Due to the complexity of E&P operations and their often remote locations, it is often difficult to address

findings from an audit within a three-year time frame, especially if engineering or a plant turn-around is required.

59. **Would revising § 1910.119(o) to require employers to respond to deficiencies found in the compliance audit within certain timeframes prevent worker injuries and fatalities? What would you consider to be an appropriate timeframe?**

There are numerous factors which must be considered in establishing the timeframe to respond to deficiencies found in any audit. These include but are not limited to the nature of the deficiency, its relative risk, and the analysis/studies which must be undertaken to develop an appropriate and comprehensive response. As such, § 1910.119(o) should not be revised to include a specified time frame.

Additionally, many of the Associations' member companies utilize a "risk-matrix" tool, typically developed in-house, to establish the proper, company-specific prioritization of deficiencies. Higher risk deficiencies will be addressed within a shorter time-frame, as is proper.

N. Expanding the Requirements of § 1910.109 to Cover Dismantling and Disposal of Explosives, Blasting Agents, and Pyrotechnics

60. **Does your facility conduct explosives dismantling or disposal activities not covered under § 1910.109? If so, do you treat these activities as covered under § 1910.109 for safety or other reasons? Please explain.**

Explosive dismantling and disposal activities are not associated oil and gas production operations conducted by the Associations' member companies.

61. **Please provide any data or information on workplace accidents, near misses, or other safety-related incidents involving dismantling or disposal of explosives, blasting agents, and pyrotechnics. Would coverage of these dismantling and disposal activities under § 1910.109 prevent such incidents from occurring?**

The Associations have no data or information on such accidents

- ~~62. **Are your operations currently covered under regulations issued by ATF? Are there specific areas of workplace safety that are not covered by ATF that should be considered by OSHA? Is there overlap or inconsistencies between the Requirements of § 1910.109 and ATF regulations that would need to be addressed before an expansion would be recommended?**~~

No comment. The Associations collectively represent thousands of companies, some of which have hundreds, if not thousands of facilities - cannot respond to a facility-specific question.

63. **What would be the economic impacts if OSHA expanded the scope of § 1910.109 to cover the dismantling and disposal of explosives, blasting agents, and pyrotechnics? Are there any**

special circumstances involving small entities that OSHA should consider with respect to this option?

Since oil and gas production operations do not entail the use of explosive dismantling and disposal activities, the proposed expansion would have minimal economic impact to oil and gas production operations.

O. Updating §§ 1910.106 and 1910.107 Based on the Latest Applicable Consensus Standards

64. Is your facility covered by §§ 1910.106 or 1910.107? If so, what are the operations covered by the standard(s)?

Flammable liquid storage at oil and gas production facilities is covered by § 1910.106.

65. Are there other federal, state, or local requirements that cover flammable liquids or spray finishing operations in your facility? If so, do the requirements protect workers more or less than §§ 1910.106 and 1910.107? Please explain.

There are numerous state and/or local requirements which address flammable liquid storage at oil and gas production facilities. For example, a number of states have adopted NFPA 30.

66. Does your facility follow NFPA 30, 30A, or 30B for flammable liquids, or NFPA 33 for spray-finishing operations? If so, which edition(s)? Are there any other consensus standards applicable to flammable liquids or spray-finishing operations that your facility follows?

Oil and gas production facilities typically follow the guidance in NFPA 30 for the storage of flammable liquids. Other consensus standards which may be applicable include but are not limited to:

*API Specification 12B, Bolted Tanks for Storage of Production Liquids;
API Specification 12D, Field Welded Tanks for Storage of Production Liquids;
API Specification 12F, Shop Welded Tanks for Storage of Production Liquids;
API Standard 620, Design and Construction of Large, Welded, Low-Pressure Storage Tanks
API Standard 650, Welded Steel Tanks for Oil Storage
API Standard 12P, Specification for Fiberglass Reinforced Plastic Tanks*

67. On which standards (e.g., consensus, federal, state, local) were the design and operation of your facility primarily based?

No comment. The Associations collectively represent thousands of companies, some of which have hundreds, if not thousands of facilities - cannot respond to a facility-specific question.

68. Should OSHA replace §§ 1910.106 and 1910.107 with the latest editions of NFPA 30, 30A, 30B, and 33? If so, should OSHA replace §§ 1910.106 and 1910.107 entirely or only in part? What would be the economic impacts of these options (e.g., cost of additional equipment, cost of

additional training, benefits of quality management, special circumstances involving small entities, etc.)?)

The Associations support a rulemaking initiated by OSHA to replace § 1910.106 with NFPA 30

69. **Are there gaps in safety coverage in §§ 1910.106 or 1910.107? If so, what are the gaps, would NFPA 30, 30A, 30B, and 33 address the gaps, and what would be the economic impacts of addressing the gaps through rulemaking? Are there any special circumstances involving small entities that OSHA should consider with respect to addressing the gaps through rulemaking?**

In regards to oil and gas production operations the Associations are not aware of any gaps in safety coverage in § 1910.106

70. **Are there any requirements in §§ 1910.106 and 1910.107 that prevent worker injuries and fatalities better than the safety practices in the latest editions of NFPA 30, 30A, 30B, and 33? If so, which requirements?**

The Associations are not aware of any requirements in § 1910.106 that prevent worker injuries and fatalities more effectively than the safety practices in NFPA 30

71. **Please provide any data or information on workplace accidents, near misses, or other safety-related incidents involving gaps in safety coverage in §§ 1910.106 or 1910.107.**

The Associations have no data or information on such accidents

72. **Are the § 1910.106 provisions related to facility types (e.g., bulk plant, chemical plant, distillery) a useful classification system? If not, what type of a classification system should the standard use instead? Please explain.**

If NFPA 30 is adopted - the classification system in NFPA should be utilized.

- ~~73. **If OSHA updates § 1910.106 and 1910.107 through rulemaking, what revisions to the scope and application of the standards would provide the best protection to workers?**~~

No comments.

P. Updating the Regulations Addressing the Storage, Handling, and Management of Ammonium Nitrate

- ~~74. **Does your facility store, handle, or manage ammonium nitrate? If so, in what form (e.g., solid, liquid) and in what grade (e.g., high density, low density) is the ammonium nitrate? Please explain.**~~

No comment - not applicable to oil and gas production operations

~~75. Does your facility comply with § 1910.109(i) for the storage of ammonium nitrate? Are there any other standards, including consensus standards, applicable to ammonium nitrate storage, handling, and management that your facility follows? If so, which ones?~~

No comment - not applicable to oil and gas production operations

~~76. Please provide any data or information on workplace accidents, near misses, or other safety-related incidents involving the storage, handling, and management of ammonium nitrate.~~

No comment - not applicable to oil and gas production operations

~~77. How can OSHA update its standards and improve its enforcement policy relating to the storage, handling, and management of ammonium nitrate to prevent worker injuries and fatalities? Please discuss the economic impacts associated with such improvement, including any special circumstances involving small entities that OSHA should consider.~~

No comment - not applicable to oil and gas production operations

Q. Changing Enforcement Policy for the PSM Exemption for Retail Facilities

~~78. Does your facility qualify for the PSM exemption for “retail facilities” under OSHA's current enforcement policy? If so, would changing OSHA's enforcement policy to only exempt facilities in NAICS sectors 44 and 45 that sell highly hazardous chemicals in small containers, packages, or allotments to the general public result in PSM coverage for your facility?~~

No comment - not applicable to oil and gas production operations

~~79. Please provide any data or information on workplace accidents, near misses, or other safety-related incidents involving highly hazardous chemicals at “retail facilities” exempt from PSM coverage under § 1910.119(a)(2)(i).~~

No comment - not applicable to oil and gas production operations

~~80. Please discuss any economic impacts that would result from changing OSHA's retail facilities policy to only exempt facilities in NAICS sectors 44 and 45 that sell highly hazardous chemicals in small containers, packages, or allotments to the general public. Are there any special circumstances involving small entities that OSHA should consider with respect to this option?~~

No comment - not applicable to oil and gas production operations

~~81. Is there a definition of “retail facilities” that OSHA should use to protect workers under the PSM standard? Please discuss any economic impacts associated with your suggested definition. Are there any special circumstances involving small entities that OSHA should consider with respect to your or other definitions?~~

No comment - not applicable to oil and gas production operations

R. Changing Enforcement Policy for Highly Hazardous Chemicals Listed in Appendix A of the PSM Standard without Specific Concentrations

~~82. Does your facility handle any chemicals excluded from PSM coverage on the basis that the concentration is below the “maximum commercial grade”? If so, what are these chemicals and concentrations, and would OSHA adopting EPA’s policy for RMP-listed chemicals in mixtures as OSHA’s enforcement policy for PSM-listed chemicals without specific concentrations result in PSM coverage of the chemicals in your facility?~~

No comment. The Associations collectively represent thousands of companies, some of which have hundreds, if not thousands of facilities - cannot respond to a facility-specific question.

83. Please provide any data or information on workplace accidents, near misses, or other safety-related incidents involving highly hazardous chemicals excluded from PSM coverage on the basis that that the concentration was below the “maximum commercial grade.”

The Associations have no data or information on such accidents

84. Please discuss any economic impacts that would result from OSHA adopting EPA’s policy for RMP-listed chemicals in mixtures as OSHA’s enforcement policy for PSM-listed chemicals without specific concentrations. Are there any special circumstances involving small entities that OSHA should consider with respect to this option?

Oil and gas production operations handle naturally occurring products (primarily crude oil, natural gas, produced water, etc.) which include various chemicals in various concentrations. OSHA’s adoption of EPA’s policy for RMP-listed chemicals in mixtures as OSHA’s enforcement policy for PSM-listed chemicals without specific concentrations could result in substantial economic impacts to companies which operate oil and gas facilities. These impacts must be evaluated prior to making this policy change. Furthermore, since the list of highly hazardous chemicals contains categories for “flammable liquid and gas”, it is not necessary to address mixture percentages in order to mitigate hazards associated with E&P operations.

85. Is there a different enforcement policy that OSHA should use to protect workers from the hazards associated with the chemicals listed in Appendix A of the PSM standard without specific concentrations? Please discuss any economic impacts associated with your suggested enforcement policy. Are there any special circumstances involving small entities that OSHA should consider with respect to your suggested enforcement policy?

The Associations have no comment on OSHA enforcement policies